

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 887 of 1997

in

CIVIL APPLICATION No 3378 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

JITENDRA D PATEL

Versus

APNI SAHKARI BANK LTD.

Appearance:

MS NANDINI JOSHI for Appellant
MR GM JOSHI for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE A.L.DAVE

Date of decision: 17/04/98

ORAL JUDGEMENT

This appeal is filed against the order passed in Civil Application No. 3378 of 1997. On April 3, 1997, the following order was passed by the learned Single Judge in the above application.

"The applicant-petitioner is present in person.

Mr.G.M.Joshi for Respondent.

This Civil Application has been moved seeking direction against the opponent Bank for depositing the awarded amount in the Court within 15 days. The respondent is Co-operation Bank and therefore I do not find it necessary to direct the respondent Bank during the pendency of this Special Civil Application to deposit the amount as has been sought by the petitioner in person through this Civil Application. Appropriate order can always be passed at the time when the Special Civil Application is finally decided. This Civil Application is hereby rejected."

It is not disputed by and between the parties that the main petition ie. Spl.C.A.No.1962 of 1997 is pending before the learned Single Judge and Rule is issued. It is also an admitted fact that an application against termination is also pending before the Labour Court. It is no doubt contended by Mrs.Joshi that the said application has become infructuous in view of the fact that a settlement has been arrived at between the parties. On the other hand Mr.Joshi has contended that an application under Sec.33-C(2) of the Industrial Disputes Relation Act, 1947 would not be maintainable as an application would lie only under sub-section (2) of Section 33 of the Act. We may make it clear that we are not observing anything on merits of the matter nor on the maintainability of the application. As and when the point will be raised, the court will decide the same after hearing the parties. It is open to both the parties to take all the contentions available at law.

When the main matter is pending before the learned Single Judge, in our opinion by passing the impugned order in C.A. no error of law can be said to have been committed. It is submitted on behalf of the appellant that rule is also made returnable. Thus, there is one more ground that the Letters Patent Appeal filed may not be entertained at this stage during the pendency of the main matter. Liberty is, however, granted to the learned counsel for the appellant to request the appropriate court taking final hearing matter so that the main matter i.e. Spl.C.A.No.1962 of 1997 is disposed of

as expeditiously as possible. As and when such a prayer is made, the learned Single Judge will consider the same and will pass appropriate order. It is also directed that the Labour Court will decide the application expeditiously as possible after hearing the parties on its own merit without being influenced by the observations made by us in the above order. Letters Patent Appeal is accordingly dismissed. No order as to costs.

Dt. 17.4.1998. (C.K.THAKKER J.)

(A.L.DAVE J.)